Remarks

In the Final Office Action dated September 22, 2008, the following rejections are present: claims 1-12 stand rejected under 35 U.S.C. § 112(2); claims 1-12 stand rejected under 35 U.S.C. § 103(a) over the Cohn reference (US Patent No. 6,317,791) in view of the Cromer reference (US Patent No. 6,304,899). Applicant traverses all of the rejections and, unless explicitly stated by the Applicant, does not acquiesce to any objection, rejection or averment made in the Office Action.

Applicant respectfully traverses each of the rejections. Applicant notes that the Examiner's Advisory Action does not address Applicant's previous arguments. In particular, the Advisory Action merely puts forth an unsupported conclusion that wakeup is the same as booting. This, however, does not show that the combination would perform transmission or receipt of multimedia data during booting (or wakeup). As will be discussed in more detail hereafter, neither reference (alone or in combination) teaches such use of multimedia data during booting. Notwithstanding, Applicant further notes that new claims 13-16 have been added that expressly exclude the Examiner's conclusion regarding wakeup and booting. In particular, these new claims are directed to booting operations that include execution of an initial set of instructions carried out in response to a user turning on power to the device (*see, e.g.*, Published version of Applicant's Specification at paragraph 0024 - explaining that the booting step is implemented when a user switches on the device). As such, these booting operations are not identical to the wakeup asserted in the Advisory Action.

Generally, Applicant's claimed invention is directed toward receiving multimedia content during booting. The Examiner has agreed that the Cohn reference does not receive multimedia content during booting; however, the Cromer reference also does not teach receipt of such data during booting (or even receiving during wakeup). Thus, no properly asserted combination of these teachings would function to receive multimedia content during booting.

With particular regard to the rejection under 35 U.S.C. § 103(a), the Examiner appears to have overlooked claim limitations directed to transmitting, during booting, multimedia from a third-party device. As neither Cohn nor Cromer teach the transmission of multimedia data during booting, the rejections are improper. Notwithstanding, Applicant

has made amendments to facilitate prosecution by re-phrasing these limitations. For example, claims 1-9 now expressly indicate that execution of each of booting, receiving and playing occurs in parallel. As further examples, claim 10 requires a receiver configured to receive a specific type of request from a device that is booting, and claim 11 requires transmission of multimedia during booting.

Cohn and Cromer do not teach that content is received during booting, nor do they suggest that modules for each of booting, receiving and playing occur in parallel. Accordingly, the rejections are improper and Applicant requests that they be withdrawn.

Regarding the rejections under 35 U.S.C. § 112(2), Applicant notes that the claim term erroneously identified as being indefinite is no longer present. Accordingly, the rejection is moot. Notwithstanding, Applicant notes that claim 1 was the only independent claim that included this language; yet, the rejection included other independent claims. Moreover, a proper rejection under 35 U.S.C. § 112(2) should include an analysis as to why the phrase(s) used in the claim is "vague and indefinite" (see M.P.E.P. § 2173.02). The Examiner's rejection only provided a conclusory statement of the ultimate determination without any such analysis. As such, Applicant has been unable to ascertain what is indefinite about the claim language that would otherwise appear to be both clear and distinct.

In view of the remarks above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Aaron Waxler, of NXP Corporation at (408) 474-9068.

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